

### 3. **REGULATIONS**

#### A. **Phase-out Requirements for Single Hull Tank Vessels (CG)**

Section 4115 of the Oil Pollution Act of 1990 (OPA 90) amended Title 46 of the United States Code by adding a new section 3703a. This section contains the double hull requirements and phase-out schedule for single hull tank vessels operating in U.S. waters. It requires an owner to remove a single hull tank vessel from bulk oil service on a specific date, depending on the vessel's gross tonnage, build date, and hull configuration. The phase-out schedule allows more years of service for single hull tank vessels that have been configured to include double sides or a double bottom than for ones without these hull configurations.

On June 23, 2000, (65 FR 39260), the Coast Guard (CG), U.S. Department of Transportation, issued a final rule (33 CFR part 157) that clarifies the regulations for determining phase-out dates for single hull tank vessels under OPA 90. This rule codifies Coast Guard policy published on April 21, 1999, that states that conversion of a single hull tank vessel to add only double sides or only a double bottom after August 18, 1990, will not change the vessel's scheduled phase-out date under OPA 90.

For further information, contact Mr. Robert Gauvin, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1053).

#### B. **Response Plans for Non-Petroleum Oils (EPA/CG)**

On June 30, 2000, (65 FR 40776), the U.S. Environmental Protection Agency (EPA) promulgated a final rule (40 CFR part 112), under section 311 of the Clean Water Act, that amends the EPA Facility Response Plan requirements in the oil pollution prevention regulation for non-transportation-related facilities. The main purpose of these amendments is to provide a more specific methodology for planning response resources that can be used by an owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils. Also on June 30, 2000, (65 FR 40820), the Coast Guard (CG), U.S. Department of Transportation, issued a related final rule (33 CFR part 154) that amends Coast Guard regulations requiring response plans for marine transportation-related (MTR) facilities that handle, store, or transport animal fats or vegetable oils. Specifically, the new rule downgrades the initial classification of affected facilities and clarifies planning and equipment requirements. These final rules address a statutory mandate.

For further information, contact either Ms. Barbara Davis, Oil Program Center, U.S. Environmental Protection Agency, 1235 Jefferson Davis Highway, Arlington, VA 22202, (phone: (703) 603-8823), or Lt. Claudia Gelzer, Office of Response (G-MOR), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1983).

### C. Water Quality Planning and Management (EPA)

On July 13, 2000, (65 FR 43586), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR parts 9, 122, 123, 124, and 130) that revises and clarifies EPA's current regulatory requirements for establishing Total Maximum Daily Loads (TMDLs) under the Clean Water Act (CWA) so that TMDLs can more effectively contribute to improving the nation's water quality. Clean water has been a national goal for many decades. While significant progress has been made, particularly in stemming pollution from factories and city sewage systems, major challenges remain. This action establishes an effective and flexible framework to move the country toward the goal of clean water for all Americans. It establishes a process for making decisions in a common sense, cost-effective way on how best to restore polluted waterbodies. It is based on identifying and implementing necessary reductions in both point and nonpoint sources of pollutants as expeditiously as practicable.

States, Territories, and authorized Tribes will develop more comprehensive lists of all waterbodies that do not attain and maintain water quality standards. States, Territories, and authorized Tribes will schedule, based on priority factors, the establishment of all necessary TMDLs over 10 years, with an allowance for another 5 years where necessary. The rule also specifies elements of approvable TMDLs, including implementation plans that contain lists of actions and expeditious schedules to reduce pollutant loadings. States, Territories, and authorized Tribes will provide the public with opportunities to comment on methodologies, lists, prioritized schedules, and TMDLs prior to submission to EPA. The rule lays out specific timeframes under which EPA will assure that lists of waters and TMDLs are completed as scheduled, and necessary National Pollutant Discharge Elimination System (NPDES) permits are issued to implement TMDLs. The rule explains EPA's discretionary authority to object to, and reissue if necessary, State-issued NPDES permits that have been administratively continued after expiration where there is a need for a change in the conditions of the permit to be consistent with water quality standards and established and approved TMDLs.

EPA believes that these regulations are necessary because the TMDL program, which Congress mandated in 1972, has brought about insufficient improvement in water quality. The Agency believes that these regulations will benefit human health and the environment by establishing clear goals for identification of impaired waterbodies and establishment of TMDLs. The regulations will also ensure that States, Territories, and authorized Tribes give a higher priority to restoring waterbodies that have a greater potential to affect human health or threatened or endangered species.

For further information, contact Mr. Jim Pendergast, Office of Wetlands, Oceans and Watersheds, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-9549).

### D. Hazardous Air Pollutants from Boat Manufacturing (EPA)

On July 14, 2000, (65 FR 43842), the U.S. Environmental Protection Agency (EPA) issued a proposed rule (40 CFR part 63) concerning National Emission Standards for Hazardous Air

Pollutants (NESHAP) for new and existing boat manufacturing facilities. The processes regulated include fiberglass resin and gel coat operations, carpet and fabric adhesive operations, and aluminum boat painting operations. EPA has identified boat manufacturing as a major source of hazardous air pollutants (HAP), such as styrene, methyl methacrylate, methylene chloride, toluene, xylenes, n-hexanes, methyl ethyl ketone, methyl isobutyl ketone, and methyl chloroform. These proposed standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). EPA estimates that the proposed NESHAP would reduce nationwide emissions of HAP from these facilities by approximately 36 percent from the 1997 level of emissions.

Categories and entities potentially regulated by this action include: (1) boat manufacturing facilities that perform fiberglass production operations or aluminum coating operations; (2) shipbuilding and ship repair facilities that perform fiberglass production operations or aluminum coating operations; and (3) federally owned facilities that perform fiberglass production operations or aluminum coating operations.

For further information, contact Mr. Mark Morris, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (phone: (919) 541-5416).

#### E. Fishery Endorsement (MARAD)

On July 19, 2000, (65 FR 44860), the Maritime Administration (MARAD), U.S. Department of Transportation, promulgated a final rule (46 CFR part 356) that implements the new U.S. citizenship requirements set forth in the American Fisheries Act of 1998 (AFA) for vessels of 100 feet or greater in registered length for which a fishery endorsement to the vessel's documentation is sought. The rule implements new statutory requirements of the AFA by: (1) raising the U.S. ownership and control requirements for U.S.-flag fishing vessels of 100 feet or greater in registered length that are operating in U.S. waters; (2) eliminating exemptions for fishing vessels that cannot meet current citizenship standards; (3) phasing out of operation many of the largest fishing vessels; and (4) establishing new criteria to be eligible to hold a preferred mortgage on vessels of 100 feet or greater with a fishery endorsement to the vessel's documentation. The regulations set out which transactions are permissible, which transactions will require prior approval, and which transactions are impermissible and, to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

For further information, contact Mr. John Marquez, Division of Maritime Assistance Programs (MAR-222), Office of the Chief Counsel, Maritime Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (phone: (202) 366-5320).

F. Customers First in the Title XI Program (MARAD)

On July 20, 2000, (65 FR 45146), the Maritime Administration (MARAD), U.S. Department of Transportation, issued a final rule (46 CFR part 298) that amends certain provisions of the existing regulations implementing Title XI of the 1936 Merchant Marine Act, as amended. This rule amends existing regulations by simplifying existing administrative practices governing the ship financing guarantee process and the standards for evaluation and approval of applications. These changes will make the entire process easier for applicants.

MARAD administers financial assistance under Title XI of the Merchant Marine Act in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. The Title XI program enables applicants to obtain long-term financing on terms and conditions that may not otherwise be available. Once an applicant submits a Title XI application to MARAD and prior to execution of a guarantee, MARAD must, among other things, make determinations of the economic soundness of the project and the applicant's financial and operating capability.

For further information, contact Ms. Linda W. Reaves, Office of Ship Financing, Maritime Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (phone: (202) 366-1899).

G. Pelagic Longline Management (NOAA)

On August 1, 2000, (65 FR 47214), the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, issued final regulations (50 CFR part 635) to prohibit pelagic longline fishing at certain times and in certain areas within the Exclusive Economic Zone (EEZ) of the Atlantic Ocean off the coast of the Southeastern United States and in the Gulf of Mexico, and to prohibit the use of live bait when deploying pelagic longline gear in the Gulf of Mexico. This action is necessary to reduce bycatch and incidental catch of overfished and protected species by pelagic longline fishermen who target highly migratory species (HMS).

Pelagic longline gear is the dominant commercial fishing gear used by U.S. fishermen in the Atlantic Ocean to target highly migratory species. The gear consists of a mainline, often many miles in length, suspended in the water column by floats and from which baited hooks are attached on leaders. Though not completely selective, longline gear can be modified to target preferentially yellowfin tuna, bigeye tuna, or swordfish. Observer data and vessel logbooks indicate that pelagic longline fishing for Atlantic swordfish and tunas results in catch of non-target finfish species such as bluefin tuna, billfish, and undersized swordfish, and of protected species, including threatened and endangered sea turtles. Also, this fishing gear incidentally hooks marine mammals and sea birds during tuna and swordfish operations. The bycatch of animals that are hooked but not retained due to economic or regulatory factors contributes to overall fishing mortality. Such bycatch mortality may significantly impair rebuilding of overfished finfish stocks or the recovery of protected species.

For further information, contact Steve Meyers, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, (phone: (301) 713-2347).

#### H. Accidental Chemical Release Prevention (EPA/DOJ)

On August 4, 2000, (65 FR 48108), the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) promulgated a final rule (40 CFR chapter IV) that provides for access to information concerning the potential off-site consequences of hypothetical accidental chemical releases from industrial facilities. Under section 112(r) of the Clean Air Act, facilities handling large quantities of extremely hazardous chemicals are required to include that information in a risk management plan (RMP) submitted to EPA. As required by the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, this rule provides members of the public and government officials with access to that information in ways designed to minimize the likelihood of accidental releases, the risk to national security associated with posting the information on the Internet, and the likelihood of harm to public health and welfare.

For further information, contact Ms. Brenda Sue Thornton, Criminal Division, Terrorism and Violent Crime Section, U.S. Department of Justice, 601 D Street, NW, Washington, DC 20530, (phone: (202) 616-5210) or Mr. John Ferris, Chemical Emergency Preparedness and Prevention Office, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-4043).

#### I. Pollution Prevention for Oceangoing Ships (CG)

On August 8, 2000, (65 FR 48548), the Coast Guard (CG), U.S. Department of Transportation, issued a proposed rulemaking (33 CFR parts 151, 155, 157, and 158 and 46 CFR part 172) that would amend U.S. regulations for pollution prevention from ships. To align with international standards, the Coast Guard proposes to amend the domestic regulations concerning oily-water separators, operational discharges of oil, damage and intact stability of tank vessels, International Oil Pollution Prevention Certificates, garbage recordkeeping requirements, and placards for reception facilities. To provide consistency with industry standards and clarification in U.S. oil regulations, the Coast Guard proposes changing oily mixture discharge shore connection requirements for certain vessels and redefining certain terms dealing with oil.

By aligning the domestic regulations with international standards, compliant U.S. ships would encounter fewer difficulties while engaged in international trade. The Coast Guard is authorized to prescribe or amend regulations necessary to implement any changes to the standards of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as amended, (MARPOL 73/78). Allowing certain ships to use quick-connect fittings compatible with domestic reception facilities for discharging oil mixtures ensures that these ships are in compliance with U.S. regulations without imposing unnecessary costs to the ship owners and operators.

For further information, contact LCdr. Michael Jendrossek, Vessel and Facility Operating Standards Division, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1181).

J. Transportation Equipment Cleaning (EPA)

On August 14, 2000, (65 FR 49666), under the authority of the Clean Water Act (CWA), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR part 442) that establishes technology-based effluent limitations guidelines, new source performance standards, and pretreatment standards for the discharge of pollutants into waters of the United States and into publicly owned treatment works (POTWs) by existing and new facilities that perform transportation equipment cleaning operations. Transportation equipment cleaning (TEC) facilities are defined as those facilities that generate wastewater from cleaning the interior of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, tank barges, closed-top hopper barges, and ocean/sea tankers used to transport materials or cargoes that come into direct contact with the tank or container interior. Facilities that do not engage in cleaning the interior of tanks are not considered within the scope of this rule.

EPA is subcategorizing the TEC point source category into four subparts based on types of cargoes carried and transportation mode: (1) tank trucks and intermodal tank containers transporting chemical and petroleum cargoes; (2) rail tank cars transporting chemical and petroleum cargoes; (3) tank barges and ocean/sea tankers transporting chemical and petroleum cargoes; and (4) tanks transporting food grade cargoes. For all four subparts, EPA is establishing effluent limitations guidelines for existing facilities and new sources discharging wastewater directly to surface waters. EPA is establishing pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in all subparts except for food grade cargoes. EPA is not establishing effluent limitations guidelines or pretreatment standards for facilities that generate wastewater from cleaning the interiors of closed-top hoppers.

The TEC limitations do not apply to wastewaters associated with tank cleanings performed in conjunction with other industrial, commercial, or POTW operations so long as the facility cleans only tanks and containers that have contained raw materials, by-products, and finished products that are associated with the facility's on-site processes. The wastewater flows covered by this rule include all washwaters that have come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. Additionally, the rule covers wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated stormwater at those facilities subject to the TEC effluent limitations guidelines and standards.

For further information, contact Mr. John Tinger, Engineering and Analysis Division, Office of Science and Technology, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-4992).

K. Discharge of Dredged Material (ACE/EPA)

On August 16, 2000, (65 FR 50108), the U.S. Army Corps of Engineers (ACE) and the U.S. Environmental Protection Agency (EPA) published a proposed rule (33 CFR part 323 and 40 CFR part 232) that would amend Clean Water Act (CWA) section 404 regulations defining the term “discharge of dredged material.” This proposal is intended to identify types of activities that are likely to result in a discharge of dredged material subject to CWA section 404. The proposal would enhance protection of the Nation’s aquatic resources, including wetlands, by amending the regulations to establish a rebuttable presumption that mechanized landclearing, ditching, channelization, in-stream mining, and other mechanized excavation activity in waters of the United States result in more than incidental fallback, and thus involve a regulated discharge of dredged material.

For further information, contact Mr. Mike Smith, U.S. Army Corps of Engineers (CECW-OR), 441 G Street, NW, Washington, DC 20314, (phone: (202) 761-4598), or Mr. John Lishman, Office of Wetlands, Oceans and Watersheds, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (phone: (202) 260-9180).

L. Fire Protection Measures for Towing Vessels (CG)

On August 28, 2000, (65 FR 52043), the Coast Guard (CG), U.S. Department of Transportation, published a final rule (46 CFR part 27) that makes a few changes to the fire-protection measures for towing vessels that were implemented by an interim rule issued on October 19, 1999. These changes are being made because of the public comments submitted in response to that rule. The changes clarify the requirements for fuel shut-off valves, fuel-tank vents, design of fire-detection systems for engine rooms, and safety orientations. The interim rule prescribed that most towing vessels be fitted with: general alarms, fire-detection systems for engine rooms, internal communication systems, and remote fuel shut-off valves. Furthermore, these vessels must conduct fire-fighting drills and establish training requirements for their crews. The interim rule exempted towing vessels that engage only in assistance towing, pollution response, or fleeting.

For further information, contact Mr. Randall Eberly, Office of Design and Engineering Standards (G-MSE), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (phone: (202) 267-1861).

M. Environmental Analysis of Army Actions (Army)

On September 7, 2000, (65 FR 54348), the Department of the Army, U.S. Department of Defense, published a proposed rule (32 CFR part 651) concerning revised policy and procedures for implementing the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500-1508). These guidelines replace policy and procedures found in the current Army regulation regarding environmental effects of Army actions. The revision is necessary to clarify and update the current regulation. Since the December 1988 update of this regulation, initiatives such as the National Performance Review

(NPR) have streamlined the federal government through decentralization, reduction, and simplification of regulations, and management of risk. This proposed rule strives to meet the spirit of the NPR and Executive Order 12861. Topics addressed by this proposed rule include: (1) NEPA and the decision process; (2) records and documents; (3) categorical exclusions; (4) environmental assessment; (5) environmental impact statement; (6) public involvement and the scoping process; and (7) environmental effects of major Army actions abroad.

For further information, contact Mr. Ronald Webster, Army Environmental Policy Institute, 101 Marietta Street, Atlanta, GA 30303-2716, (phone: (404) 880-6707).

N. Hazardous Air Pollutants (EPA)

On September 14, 2000, (65 FR 55810), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR parts 9 and 63) that modifies the Agency's procedures for delegating hazardous air pollutant (HAP) standards and other requirements to state, local, and territorial agencies, and Indian tribes (S/L/T). Under section 112(l) of the Clean Air Act (CAA), EPA is authorized to approve alternative S/L/T HAP standards or programs when such requirements are demonstrated to be no less stringent than EPA's rules. This action amends EPA's existing regulations that implement section 112(l) of the CAA. The changes will help S/L/Ts by offering a range of options for demonstrating equivalence with the federal requirements and expediting the approval process. EPA believes that these changes will result in less burden to S/L/Ts, regulated industries (by avoiding duplicative requirements), and the federal government, without sacrificing the emissions reduction and clean air enforcement goals. This rulemaking also addresses requirements that apply to S/L/Ts, should they choose to obtain delegation or program approval under section 112(l).

For further information, contact Mr. Thomas A. Driscoll, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (phone: (919) 541-5135).